

JUDGE RAKOFF

08 CV 4997

CHALOS, O'CONNOR & DUFFY, LLP
Attorneys for Plaintiff,
ABS BREAKBULK SERVICES GMBH
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Owen F. Duffy (OD-3144)
George E. Murray (GM-4172)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
ABS BREAKBULK SERVICES GMBH

Plaintiff,

v.

TOTALMAR NAVIGATION CORP.,

Defendant.

-----X
STATE OF NEW YORK :
: ss.
COUNTY OF NASSAU :

08 CV ____ (____)

**ATTORNEY'S AFFIDAVIT
THAT DEFENDANT
CANNOT BE FOUND
WITHIN THE DISTRICT**

This affidavit is executed by the attorney for the Plaintiff, ABS BREAKBULK SERVICES GMBH, in order to secure the issuance of a Summons and Process of Attachment and Garnishment in the above-entitled, *in personam*, Admiralty cause.

George E. Murray, being first duly sworn, deposes and states:

1. I am an associate of the firm of Chalos, O'Connor & Duffy LLP representing Plaintiff ABS BREAKBULK SERVICES GMBH, in this case.

2. I have personally inquired or have directed inquiries into the presence of Defendant TOTALMAR NAVIGATION CORP. in this District.

3. I have personally checked with the office of the Secretary of State of the State of New York, using the Secretary of State's Division of Corporations database, and I have determined that, as of May 29, 2008, the Defendant TOTALMAR NAVIGATION CORP. is not incorporated pursuant to the laws of New York, is not qualified to conduct business within the State of New York and has not nominated agents for the service of process within New York because the Secretary of State of the State of New York has no records for the Defendant TOTALMAR NAVIGATION CORP.

4. I have inquired of Verizon Telephone Company whether the Defendant TOTALMAR NAVIGATION CORP. can be located within this District. The Verizon Telephone Company has advised me that the Defendant does not have any telephone number listings within this District.

5. I have further consulted with several other telephone directories on the internet, and I have found no telephone listing or address for the Defendant TOTALMAR NAVIGATION CORP. within this District.

6. I have further made several searches on the internet with various search engines and maritime websites, and I have found no indication that the Defendant TOTALMAR NAVIGATION CORP. can be found within this District.

7. In that I have been able to determine that the Defendant TOTALMAR NAVIGATION CORP. is not based in the District and that I have found no indication that the Defendant TOTALMAR NAVIGATION CORP. can be found within this District, I have formed a good faith belief that the Defendant TOTALMAR

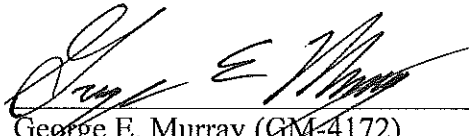
NAVIGATION CORP. does not have sufficient contacts or business activities within this District to defeat maritime attachment under Rule B of the Supplemental Rules for Admiralty or Maritime Claims as set forth in the Federal Rules of Civil Procedure.

8. It is my belief, based upon my own investigation that the Defendant TOTALMAR NAVIGATION CORP. cannot be found within this District for the purposes of Rule B of the Supplemental Rules for Admiralty or Maritime Claims of the Federal Rules of Civil Procedure.

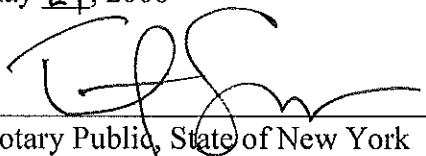
Dated: Port Washington, New York
May 29, 2008

CHALOS, O'CONNOR & DUFFY, LLP
Attorneys for Plaintiff,
ABS BREAKBULK SERVICES GMBH,

By:


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Owen F. Duffy (OD-3144)
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Subscribed and sworn to before me this
May 29, 2008


Notary Public, State of New York

TIMOTHY SEMENORO
NOTARY PUBLIC, STATE OF NEW YORK
NO. 02560112804
QUALIFIED IN NASSAU COUNTY
COMMISSION EXPIRES JULY 12, 2008